

Exhibit 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

JAN 22 2002

HENRY SEGAR, et al.

Plaintiffs,

vs.

JOHN ASHCROFT, et al.

Defendants.


NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

Civil Action Number: 77-0081-EGS

Referred to:
Magistrate Judge John M. Facciola

ORDER GRANTING PLAINTIFFS' MOTION FOR ENTRY OF BYLAWS OF EQUAL
EMPLOYMENT OPPORTUNITY MONITORING COMMITTEE
AS AN ORDER OF THE COURT

UPON CONSIDERATION of Plaintiffs' Motion for Entry of Bylaws of Equal Employment Opportunity Committee (the "Committee") as Order of the Court, it is hereby ORDERED that Plaintiffs' Motion for Entry of Bylaws of the Committee as an Order of the Court is GRANTED and the Bylaws attached hereto (Exhibit A to Plaintiffs' Motion) are ENTERED as an Order of the Court. It is further ORDERED that the election of Committee members shall proceed without delay in the manner such that three Committee seats will be open for election in the first election cycle (Option A on the ballot attached as Exhibit B to Plaintiffs' Motion).


HONORABLE JOHN M. FACCIOLA
UNITED STATES MAGISTRATE JUDGE

Dated: 01/18/02

cc: Laurie Weinstein
Assistant United States Attorney

(N)

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**BYLAWS FOR SEGAR V. ASHCROFT EQUAL EMPLOYMENT OPPORTUNITY
MONITORING COMMITTEE**

I. Structure of the Committee

The Equal Employment Opportunity Monitoring Committee ("the Committee") will consist of nine Plaintiff Class ("Class") members. The Class consists of all current and former African-American Agents of the Drug Enforcement Administration ("DEA").

Committee members will have reached at least the GS-13 level on or before the time of nomination, have knowledge and understanding of the Segar decision, and be willing to commit time to their duties as a Committee member.

When a vacancy occurs on the Committee, an Election Committee (as defined in Section II) will notify the Class; the Election Committee will call for nominations for the position; and an election will be held. The Committee members will be elected by the Class members.

Each Committee member will serve a four-year term. There is no limit on the number of terms to which a member may be elected.

In the event of a mid-term vacancy on the Committee (i.e., where a Committee member has retired or resigned prior to completing his or her term), an election for the vacant seat will be held promptly. The Committee member elected in such a mid-term election will serve for the period of time remaining in the term of Committee member whose departure created such vacancy.

The Committee will choose one of its members to serve as Chairperson. After the members have taken their positions on the Committee, the Chairperson will assign each member to serve as the representative for a specific region (and the Field Divisions therein).

In the first instance, a Class member with questions or concerns about the Segar litigation is encouraged to contact his or her representative on the Committee, the Chairperson, or any other Committee member. However, as further detailed in Section II, where a Class member is seeking to register a specific complaint for Committee review or follow-up or is making a specific request for Committee action, it is incumbent upon the Class member also to submit the complaint or concern in writing.

If a Class member is not satisfied with the work of a member of the Committee, he or she should submit such concerns in writing to the Chairperson (or to any other Committee member if the Class member's representative is the Chairperson). The Committee will review complaints and reserves the right to remove a Committee member by majority vote of the other Committee members, where such action is necessitated by failure of the Committee member to fulfill his or her Committee responsibilities.

Each Committee member is authorized to spend twenty hours of official duty time each month to carry out his or her responsibilities as a Committee member. The Committee meets every quarter at DEA Headquarters for one week, and all Committee members must attend. On occasion, special meetings may be necessary at the request of the Committee or its Chairperson.

II. Process for Electing Committee Members

The members of the Committee will be elected by the Class according to the following procedures.

An Election Committee consisting of three Class members will administer each election. The Chairperson of the EEO Monitoring Committee will choose the three members of the Election Committee. With the exception of the initial Election Committee, members of the EEO Monitoring Committee cannot serve as members of the Election Committee. In addition, Class members who are seeking to run for election to the EEO Monitoring Committee cannot serve on the Election Committee during the particular election cycle in which they seek to be candidates.

Sixty days prior to the election date, the Election Committee will send a notice to all Class members, using the most up-to-date mailing lists supplied by DEA, indicating that Class members may submit nominations to the Election Committee. All nominations must be submitted to the Committee, postmarked no later than forty days prior to the election date, and must be accompanied by a brief statement of interest from the candidate, a summary of the candidate's relevant biographical information, and the signatures of ten Class members in support of the candidate.

Prior to the election, the Election Committee will distribute to all Class members the names of the candidates, the statements of interest, and the biographical information, along with the ballots.

All Class members may vote. The Election Committee will tabulate the votes, and the results shall be reported to the Class promptly. The positions to be filled in the election shall be filled by the candidates in declining order of total votes received.

The members of the first Election Committee are Gaston Booker, Johnny Fisher, and Rosalynde Fenner. For the first election cycle conducted under these bylaws, the Election Committee will operate under the guidance of United States Magistrate Judge John M. Facciola, who will receive, and assist in the tabulation of, the ballots.

III. Responsibilities of the Committee

The Committee, created by the Court's Order dated February 17, 1982, is charged with monitoring DEA compliance with the February 17, 1982 relief order and all subsequent orders. The Committee serves as the representative of the Class in the Segar litigation; in this role, the Committee is in charge of directing the litigation and making substantive, strategic, and administrative decisions including: who to retain as counsel, how to address issues of

discrimination, whether and when to bring a matter before the Court, whether to engage in settlement of issues with DEA, and how to prioritize the issues of discrimination that are presented.

A. In addition, the Committee has the following specific responsibilities:

- To receive and review complaints by Agents concerning Defendant's compliance, in consultation with counsel for the Class;
- To make suggestions to DEA, directly and through counsel for the Defendants, regarding possible resolution of such complaints;
- To receive and review data from DEA, including annual reports analyzing the employment areas governed by the Segar Order, and all other public studies and reports received from DEA's EEO office;
- To keep information confidential where the information is required by law to be treated as confidential, where the information reflects compromise proposals made in the course of negotiations, or where confidentiality is essential to preserving ongoing negotiations;
- To report to the Court through counsel for the Class if information available to the Committee indicates that Defendants are continuing to discriminate on a classwide basis against Class members or that Defendants are otherwise violating the relief Orders;
- To facilitate implementation of the relief provisions and allow informal resolution of disputes thus obviating the necessity for bringing all disputed matters to the attention of the Court for resolution;
- To report to the Class members on a quarterly basis, and more often where necessary, on developments in the litigation and other relevant information.

In fulfilling these responsibilities, the Committee has the right and power to request information from, and meet with, other DEA employees. Specifically, where a Class member has requested in writing that the Committee inquire into his or her case, the Committee will have the right and the power to request and receive the relevant information (including the personnel file) for the Class member.

B. The following procedures shall be observed in order to fulfill the Committee's responsibilities:

1. Procedure for receiving and reviewing complaints by agents and making suggestions regarding possible resolution of such complaints

Class members must be aware that any communication to the Committee or the law firm is not a substitute for the EEO process and that each Class member with an individual complaint must be aware of and comply with the applicable deadlines and procedures for filing and proceeding with his/her individual claim.

When a Class member contacts the Committee¹ with a complaint or concerns with respect to discrimination in employment practices, the Committee will:

- Request that the Class member provide a written statement of the concern² (with all relevant documentation attached) to his or her representative, with a copy of same sent to the Chairperson of the Committee and to counsel for the Class;
- Treat all such communications as confidential with respect to DEA, unless the Class member agrees otherwise;
- Review the information, request additional information if necessary, and consult with counsel for the Class in order to determine if the complaint is one that can properly be brought before the Court in the Segar action;
- Inform the Class member (by letter) of the decision as to whether the complaint is one that can be brought before the Court in the Segar action;
- As appropriate, inform Class members of the available EEO processes and, as necessary, explain that the Segar action does not usurp the ordinary EEO process and is not intended to create duplicative or shadow procedures;
- Where the Committee and counsel for the Class determine that it is appropriate (and where the Class member bringing the complaint agrees to so proceed), the Committee will notify DEA in writing of each complaint and/or make recommendations to DEA regarding resolution of the complaint;
- Where the Committee and counsel for the Class determine that an individual complaint is one that can properly be brought before the Court in the Segar action, the Committee and counsel for the Class will take the necessary and appropriate steps for the complaint to proceed.

The Committee, in consultation with counsel for the Class, determines whether a claim falls within the scope of the Segar action by looking to the March 14, 1983 Memorandum Opinion and Order of the Court, which outlines the categories of cases properly brought as part of the

¹ Where the Class member first contacts Class counsel (as opposed to the Committee) either by telephone or in writing, Class counsel will forward to the Committee the name of the Class member and any correspondence sent by the Class member. The Committee then will follow the established procedures for responding to a complaint that is brought directly to the Committee. Class counsel also will respond to the Class member in writing acknowledging receipt of the complaint and requesting that the information necessary to begin review of the complaint, as detailed in the note below, be provided to the Committee.

² The purpose of this correspondence is for the Class member to provide to the Committee all the relevant information necessary for the Committee to understand and follow through on the Class member's concerns. For example, where applicable, a Class member should include the following information in the correspondence: a statement of the Class member's concern(s) noting the specific employment practices or procedures the Class member wants to address; a statement of the Class member's understanding of the cause or basis of the problem (why the practice or procedure, or an aspect of it, causes the result considered discriminatory and whether specific individuals are involved); the names of other class members who share the concern(s) and how they can be contacted; whether the Class member believes the concern arises on an individual or a classwide basis; and if classwide, all of the instances that the Class member knows of that form the basis of his or her belief that a discriminatory pattern exists.

Segar action. Claims of classwide or individual discrimination that occurred prior to February 17, 1982 in the areas of salary, grade-at-entry, work assignments, supervisory evaluations, discipline, or promotion have been satisfied by the relief granted in the 1982 Order, and therefore no further relief can be granted in such cases. Claims of classwide discrimination occurring after February 17, 1982 in these six areas state a violation of the Court's injunctions and are properly part of the Segar action.

In general, claims of individual discrimination after February 17, 1982 are to be remedied separately and not through the Segar action; Class members should proceed with their individual claims under the established Title VII grievance process. The one exception to this rule is that individual claims of discriminatory retaliation that bear a factual nexus to the Segar case (e.g., retaliation for participation in the Segar trial or proceedings) can properly be brought before the Court in the Segar action.

2. Procedures for receiving and reviewing data DEA provides, including annual reports analyzing the areas under the Segar Order and all other public studies and reports of the EEO office

The Committee will review the annual reports or any other EEO report or study within thirty days of receiving such reports. The Committee will discuss the report no later than the next quarterly meeting held after the receipt of the report, will determine at that time if it is necessary to take any action based on the content of the report, and will inform the Class of the general nature of the information received and any relevant developments or changes from previous reports.

DEA is required under prior Orders of the Court to provide data on a regular schedule. If DEA has not delivered such data to the Committee by two weeks after the date on which it is due, the Committee will issue a letter requesting immediate delivery of such data. If DEA has not provided the data by four weeks after the date on which it is due, the Class will file a motion for a summary Order stating that DEA is not in compliance with the relief Orders and directing that the information be provided without delay.

3. Procedures for resolving issues of continuing discrimination

When information available to the Committee indicates that Defendants are continuing to discriminate on a classwide basis against Class Members or that Defendants otherwise are violating the relief Orders, the Committee will consider whether the issue can be resolved informally through negotiation, thereby obviating the need for bringing the matter before the Court.

If engaging in such negotiations with DEA, the Committee must keep confidential all such information that DEA provides to the Committee that is required by law to be treated as confidential. Where the Committee determines that it is necessary to keep additional information confidential that is related to the negotiations, the Committee will do so.

When the Committee determines that an issue of continuing classwide discrimination or other violation of the relief order cannot be resolved without court intervention, the Committee will report this information to the Court and request the appropriate relief.

4. Procedures for reporting to and communicating with the Class

The Committee will send quarterly reports to the Class following the quarterly meetings between the Committee and DEA. These reports will clearly and concisely inform the Class of the issues discussed at the quarterly meeting, as well as any other developments in the litigation since the previous quarterly report. On a semi-annual basis, the report also will contain a brief summary of the overall status, progress, and continuing unresolved issues of the Segar litigation.

A list of Committee members, noting the Field Divisions each represents, will be stated in each quarterly report. The quarterly report also will include the date of the next quarterly meeting.

As pertaining to the quarterly meetings, the quarterly report will include the agenda of the quarterly meeting, the action taken for each agenda item, and any other matters discussed at the meeting. Class members who would like a specific item to be included on the agenda of the next quarterly meeting should contact the Chairperson, as soon as possible, but no later than forty days prior to the quarterly meeting, to identify the issue and should follow up by providing additional information in writing (with a copy to counsel for the Class). Thirty days prior to each quarterly meeting, the Committee will provide to DEA a proposed agenda for the upcoming quarterly meeting.

As pertaining to the developments in the litigation, the report will include updates on all important formal and informal steps the Committee has taken to facilitate resolution of Segar-related issues and will serve as a means for providing in summary form any other relevant information received since the previous quarterly report (i.e., statistical data or summaries of reports or studies received from DEA in order to comply with Section IV of these bylaws or other relief Orders).

Class members are encouraged to respond to the Committee with any comments or concerns about the issues raised in quarterly reports or any other issues that relate to the Segar litigation. Where appropriate, Class members, individually or as a group, are encouraged to request a meeting with the Committee to address specific concerns. The request should be made by letter to the Chairperson (with a copy to counsel for the Class), stating a proposed date and location for the meeting, and identifying the issue(s) that the Class member(s) would like to address. The Committee will promptly review all such requests and will work with the Class members to schedule a date, time, and place that accommodates the schedules and locations of both the Class members and the Committee members.

IV. Responsibilities of DEA

As part of DEA's continuing responsibility to fully implement the Segar Orders, DEA will:

Addendum to Bylaws: Transition Procedures to Begin Election of Committee Members

In addition to voting to approve or reject the bylaws, Class members will choose the transition procedure to be used to institute the election system by voting for one of the two options listed below.

The transition procedure chosen by the Class will be submitted to the Court (along with the bylaws) for the Court's approval and entry as an Order. Within 120 days of the date on which bylaws and a transition procedure are entered as an Order of the Court, the first election will be held.

Under either option, one additional position will be added to the Committee, bringing the total number of Committee members to nine. This ninth position will be filled in the first election cycle in 2001. Beginning with the first election, the four-year term for each Committee member will be instituted on a going-forward basis, subject to the transition procedures described below.

Option A: Six Committee members shall be retained (as designated by the Committee). The remaining three positions will be filled in the first election cycle. Of the six members who shall be retained, three shall be up for election one year later (2002); and three shall be up for election two years later (2003). The Committee shall designate which of the existing Committee members shall be placed in each of these two classes.

Option B: Three Committee members shall be retained (as designated by the Committee). The remaining six positions will be filled in the first election cycle. The three members who shall be retained will be up for election one year later (2002). Of the six members who are elected in 2001, three shall serve a three-year term and be up for election in 2004; and three shall serve a four-year term and be up for election in 2005. The Committee shall designate which of the Committee members elected in 2001 shall be placed in each of these two classes.

Date: October 10, 2001
 From: Rosalynde Fenner, Chairperson, EEO Monitoring Committee
 To: All Segar v. Ashcroft, Plaintiff Class Members

Attached are the proposed bylaws for the Segar v. Ashcroft Equal Employment Opportunity Monitoring Committee.

These bylaws are submitted to the Plaintiff Class to vote on whether or not to approve these bylaws as written. For Question 1, mark "YES" below if you approve the bylaws as written. Mark "NO" if you do not approve of the bylaws as written. If you answer YES, please proceed to Question 2.

Class members also are to vote on the process for a transition procedure to begin election of Committee members that is set forth in the Addendum to the Bylaws. For question 2, mark "A" if you are in favor of the first proposed transition procedure. Mark "B" if you are in favor of the second proposed transition procedure.

For this ballot to be valid, it must be signed by you in ink and must be post-marked no later than **Friday, November 9, 2001**. Please send the ballot by first-class mail to:

United States Magistrate Judge John M. Facciola
 U.S. District Court for District of Columbia, Rm. 1426
 333 Constitution Avenue, N.W.
 Washington, DC 20001

Any questions concerning this ballot should be directed to Jennie O'Flanagan, Wilmer, Cutler & Pickering, at 202- 663-6063.

BALLOT (Please mark in ink.)

1. Please mark either "YES" or "NO":

Do you approve these Bylaws for the Segar v. Ashcroft Equal Employment Opportunity Monitoring Committee?

<input type="checkbox"/> YES (If your answer is YES, you must also answer Question 2. Then please sign and return the ballot.)	<input type="checkbox"/> NO (If your answer is NO, do not answer Question 2. Please sign and return the ballot.)
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2. Please mark either "A" or "B":

Option A: Six Committee members shall be retained (as designated by the Committee). The remaining three positions will be filled in the first election cycle. Of the six members who shall be retained, three shall be up for election one year later (2002), and three shall be up for election two years later (2003). The Committee shall designate which of the existing Committee members shall be placed in each of these two classes.

☐ **Option A**

Option B: Three Committee members shall be retained (as designated by the Committee). The remaining six positions will be filled in the first election cycle. The three members who shall be retained will be up for election one year later (2002). Of the six members who are elected in 2001, three shall serve a three-year term and be up for election in 2004, and three shall serve a four-year term and be up for election in 2005. The Committee shall designate which of the Committee members elected in 2001 shall be placed in each of these two classes.

☐ **Option B**

Signature _____

Print Name _____

Daytime Telephone Number _____
 000001